IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.8.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.26231 of 2007

M/s.Armstrong Spinning Mills (P) Ltd.,
No.22, Ramnagar 3rd Street,
Tirupur. .... Petitioner

vs.

The Commercial Tax Officer,
Tirupur North .... Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari as stated therein.

For petitioner : Mr.K.J.Chandran
For respondent : Mr.R.Mahadevan
Additional Government Pleader

O R D E R

Mr.R.Mahadevan, the learned Additional Government Pleader, takes notice for the respondent.

2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

3. This writ petition has been filed to call for the records of the respondent in TNGST No.2303220/2002-03 and quash the proceedings, dated 31.5.2007, issued therein insofar as the issue relates to disallowance of exemption on sales to 100% E.O.U under Notification No.197(a) of 1970, dated 27.7.1970, is concerned.

4. It is submitted that the petitioner is a spinning mill and registered as a dealer on the files of the respondent. The petitioner manufactures cotton yarn and sells the same. In the usual course of business, the petitioner sells cotton yarn manufactured by it in the state of Tamil Nadu to registered exporters besides effecting local and

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interstate sales to other traders and manufactures. The petitioner has been carrying on business for the last several years. The respondent has all along been granted exemption on the sales of cotton yarn effected by the petitioner to registered exporters, as per Notification No.197(a) of 1970, dated 27.7.1970, on the petitioner producing proof of export by the exporters.

5. It is also submitted that for the assessment year 2002-03, the respondent, by issuing the impugned notice, dated 31.5.2007, in TNGST No.2303220/2002-03, had denied the request for grant of exemption stating that "The dealers have claimed exemption on the sale turnover of Rs.6,16,26,443.00 being sales to 100% E.O.U under Notification No.197(a), dated 26.7.1970. The E.O.U purchased the yarn is a manufacturing unit and exported the garments only. The yarn was not exported as such as laid down under Section 5(3) of the C.S.T. Act 1956. Hence the claim of exemption is found ineligible."

6. The main contention of the petitioner is that even though the Notification No.197(a) of 1970, dated 27.7.1970, is applicable to the petitioner's yarn sold to the exporters, coming within the assessment year 2002-03, the respondent had wrongly issued the impugned notice, dated 31.5.2007, in TNGST No.2303220/2002-03, stating that the petitioner would not be eligible for the exemption.

7. The learned Additional Government Pleader, appearing for the respondent, has stated that objections have not been submitted on behalf of the petitioner to the impugned notice, dated 31.5.2007, in TNGST No.2303220/2002-03. It is also stated that once the objections are submitted by the petitioner to the said impugned notice, the same would be considered by the respondent, in accordance with law, including the Notification No.197(a) of 1970, dated 27.7.1970.

8. On such submissions being made by the learned counsels appearing on behalf of the parties concerned, the petitioner is permitted to submit its objections to the impugned notice, dated 31.5.2007, in TNGST No.2303220/2002-03, within a period of fifteen days from the date of receipt of a copy of this order. On such objections being submitted by the petitioner, the respondent is directed to consider the same, on merits and in accordance with law, and in view of the Notification No.197(a) of 1970, dated 27.7.1970, and pass appropriate orders thereon, within a period of four weeks thereafter.

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9. With the above directions, the writ petition is disposed of. No costs. Consequently, connected M.P.No.1 of 2007 is closed.

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Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The Commercial Tax Officer,
Tirupur North
+ One cc to The Spl Govt Pleader SR 51824
+ One cc to Mr. K.J. Chandran, Advocate sR 51943
TS (co)
sg 30/8/07

W.P.No.26231 of 2007
16.8.2007

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